

The Honorable Karen A. Overstreet
Chapter 11
Hearing Location: Seattle, Rm 7206
Hearing Date: June 17, 2011 (on shortened time)
Hearing Time: 9:30 a.m.
Response Date: June 17, 2011 (time of hearing)

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

In re

FREDERICK D. BERG

Debtor.

Case No. 10-18668-KAO

TRUSTEE'S MOTION FOR APPROVAL TO
SELL GOLF CART

I. RELIEF REQUESTED

Diana K. Carey ("**Trustee**"), Chapter 11 Trustee for the Debtor, through her undersigned counsel, pursuant to 11 U.S.C. § 363, moves the Court for an Order approving the sale of the golf cart described herein on the terms contained in the Declaration of Eric D. Orse ("**Orse Decl.**").

II. STATEMENT OF FACTS

1. On July 27, 2010, Debtor Frederick D. Berg filed a petition under Chapter 11 of the United States Bankruptcy Code.

2. On August 19, 2010, an order was entered appointing Trustee over the Bankruptcy Estate.

3. Since appointment, the Trustee and her advisors have diligently searched for assets of the Bankruptcy Estate. Through these efforts, the Trustee has possession of a 2002 Ford SD "golf cart", VIN #1FABP225X20101600 (the "**Asset**").

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GOLF CART - 1

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4. The Trustee believes that quickly and efficiently liquidating the Asset is in the best interest of the estate.

5. The Trustee has negotiated the sale of the Asset to ABC Bus, Inc. (the “*Purchaser*”)

6. The Trustee received multiple offers for the Asset and the Purchaser was willing to pay roughly 40% more for the Asset than other potential buyers.

III. STATEMENT OF ISSUES

Whether the Court should enter an Order permitting the Trustee to sell the Asset free and clear of liens pursuant to 11 U.S.C. § 363?

IV. AUTHORITY

This Motion is brought pursuant to Fed. R. Bankr. P. 9013, Local Rule 9013, 11 U.S.C. § 363 and 11 U.S.C. § 105. Bankruptcy Code § 363(b) generally provides that the Trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the Bankruptcy Estate. § 363(f) provides that the Trustee may sell property under subsection (b) free and clear of interests if (1) applicable non-bankruptcy law permits sale of such property free and clear of such interest; (2) such entity consents; and (3) such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of the liens on such property. Washington state law permits a general receiver to sell assets of the receivership estate free and clear of liens. *See RCW §7.60.260*. Additionally, the Trustee does not believe that there are any liens or other encumbrances on the Asset. As such, the Trustee should be permitted to sell the Asset free and clear of liens. If any such liens exist, they shall attach to the proceeds from the sale of the Asset.

The Trustee proposes to use the proceeds from the sale contemplated hereby in the normal course or as otherwise approved by the Court.

V. CONCLUSION

For the reasons stated above, the Trustee respectfully requests that the Court enter an order approving the sale of the Asset free and clear of all liens, claims, and encumbrances (if any) and that

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1 such liens, claims, and encumbrances (if any), shall attach with the same priority as they currently
2 exist to the net proceeds received by the Trustee from the purchaser of the Asset.

3
4 DATED this 6th day of June, 2011.

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6 KARR TUTTLE CAMPBELL

7
8 By: 

9 George S. Treperinas, WSBA #15434

10 Stephen S. McKay, WSBA #42046

11 Attorneys for Diana K. Carey, Chapter 11 Trustee
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MOTION FOR APPROVAL TO SELL

GOLF CART - 3

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